



U. S. Department of Justice

*United States Attorney
Southern District of Iowa*

Criminal Division

Neal Smith Federal Building
210 Walnut Street, Suite 455
Des Moines, Iowa 50309-2053
Telephone (515) 473-9300
Fax (515) 473-9292

August 14, 2025

Susan E. Bindler, Clerk of Clerk
Eighth Circuit Court of Appeals
Thomas F. Eagleton Courthouse, Room 24.329
St. Louis, MO 63102

Re: *United States v. Bradley Wendt*
Appeal No. 24-2458

Dear Ms. Bindler:

Pursuant to Fed. R. App. P. 28(j), the United States alerts the Court to *United States v. Bridges*, __ F.4th __, 2025 WL 2250109 (6th Cir. Aug. 7, 2025), which found § 922(o)'s prohibition of machineguns does not violate the Second Amendment.

First, the *Bridges* court found *Bruen* did not justify revisiting post-*Heller* circuit precedent. *Id.* at *4. That prior precedent had found that *Heller* “directly foreclosed” a constitutional challenge to § 922(o), citing *Heller*'s command that “it would be a ‘startling’ interpretation of precedent to suggest that restrictions on machine guns, set forth in the National Firearms Act, might be unconstitutional.” *Id.* at *3 (quoting *United States v. Hamblen*, 591 F.3d 471, 474 (6th Cir. 2009)). The court determined, “*Bruen* did nothing to displace those aspects of *Heller* on which *Hamblen* relied; *Hamblen* therefore remains good law after *Bruen*.” *Id.* at *4.

For the same reason, this Court should reject Wendt's argument that *Bruen* requires revisiting circuit precedent. As the government's brief details (pp. 57-58), this Court followed *Heller* and upheld § 922(o) in *United States v. Fincher*, 538 F.3d 868 (8th Cir. 2008). *Bruen* did not forge a new path—rather, it “was an unqualified endorsement of *Heller*” and its “text-and-history test.” *Bridges*, 2025 WL 2250109, at *4. Because *Fincher* correctly focused on the text and history of the Second Amendment, it remains good law after *Bruen*.

Next, the *Bridges* court determined that even if its prior precedent did not control, “a fresh application of the *Heller/Bruen* text-and-history test yields the same result.” *Id.* at *5. First, machineguns are unquestionably “dangerous.” *Id.* (“Short of bombs, missiles, and biochemical agents, we can conceive of few weapons that are more dangerous than machine guns.” (quotation omitted)). Second, machineguns are “unusual.” The number of machineguns possessed outside of official law enforcement use constitutes “a small fraction of the 300 million to 500 million privately owned firearms in the United States and that machineguns are therefore unusual.” *Id.* at *7.

Because machineguns are both dangerous and unusual, Wendt had no constitutional right to possess them outside of his official duties.

Sincerely,

Richard D. Westphal
United States Attorney

By: /s/ Kyle P. Hanson
Kyle P. Hanson
Assistant United States Attorney

**CERTIFICATE OF COMPLIANCE
WITH RULES 27(d)(2)(A), 32(a), and 32(g)**

This document complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) and the word limit of Fed. R. App. P. 32(g)(1) because it contains 348 words, excluding the parts of the document exempted by Fed. R. App. P. 32(f).

This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because the document has been prepared in a proportionally spaced typeface using Microsoft 365 Word in Century Schoolbook font, 12 point.

Dated: August 14, 2025.

By: /s/ Kyle P. Hanson
Kyle P. Hanson
Assistant United States Attorney

Neal Smith Federal Building
210 Walnut Street, Suite 455
Des Moines, Iowa 50309
Tel: (515) 473-9300
Fax: (515) 473-9292

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Dawn Thomas
Paralegal Specialist